

INSPECTOR'S STATEMENT- Event Violation
Minerals Regulatory Program

Company/Mine: Southwest Stone
 Permit #: S/003/0052

Violation # MC-2010-17-06

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- ☐ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety).
- ☐ c. Damage to property.
- ☒ d. Conducting activities without appropriate approvals.
- ☐ e. Environmental harm.
- ☐ f. Water pollution.
- ☒ g. Loss of reclamation/revegetation potential.
- ☐ h. Reduced establishment, diverse and effective vegetative cover.
- ☐ i. Other.

Explanation: Operator was issued a Division Directive June 15, 2010, which suspended operations due to overdue permit fees, required the operator to provide additional reclamation surety (due to periodic review of current surety), provide evidence of right of entry to mine (renew SITLA lease), and, if the operations were to remain inactive past the 2010 season, they would need to file a request for an extended period of inactivity before the Board.

2. Has the event or damage occurred? No
 If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: Operations remain in an 'inactive' status. Surety was not increased. No request was filed with the Board for an extended period of inactivity beyond the ten-year limit.

3. Did any damage occur as a result of the violation? NO
 If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: Damage would occur in the form of insufficient bond to complete reclamation of the site, and a continued lack of appropriate land use (grazing and wildlife habitat).

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: Operator had received DOGM's directive specifying what needed to be done to continue operations at the site. Operator had called DOGM after receiving the Directive and indicated that they intended to continue operations and had clients that wanted the rock from this quarry. However, aside from remitting the past-due permit fees, none of the other items listed in the Directive were completed.

____ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

X Was the operator in violation of a specific permit condition?

Explanation: The operator did not comply with the Division Directive of June 15, 2010.

X Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: February 7, 2007 - Division Directive issued to increase surety and provide proof of right of entry. June 15, 2010, Division Directive issued to increase surety, provide proof of right of entry, and to commence operations or request an extended period of inactivity from the Board of Oil Gas and Mining.

X Was any economic benefit gained by the operator for failure to comply? Perhaps. If yes explain.

Explanation: It is likely some economic benefit was gained in the form of not providing the increased surety, or expending funds to complete the reclamation.

Failure to Abate Cessation Order # MC-2010-17-13 was issued December 20, 2010 (effective date of December 22, 2010 - CRRR card signed) for failure to abate this cessation order. As of today, the inspector is not aware of any request for appeal, or stay, and the abatement work is still not completed.

GOOD FAITH

Since this violation has yet to be abated, Good Faith Points cannot be assessed at this time.

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: _____

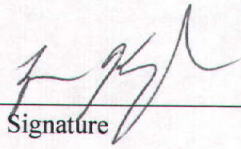
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: _____

3. Was the submission of plans prior to physical activity required by this NOV/CO? _____ If yes, explain.

Explanation: _____

Lynn Kunzler
DOGM Inspector


Signature

January 24, 2011
Date